



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/152910

PRELIMINARY RECITALS

Pursuant to a petition filed October 17, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Racine County Department of Human Services in regard to Medical Assistance, a hearing was held on November 12, 2013, at Racine, Wisconsin.

The issue for determination is whether the Racine County Department of Human Services (the agency) correctly terminated Petitioner's BadgeCare+ benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Dean Landvatter, Fraud Coordinator
Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. On July 23, 2013, the agency received an anonymous call from a person who claimed that the mother of Petitioner's children was currently living with him and had always lived with him. (Testimony of Mr. Landvatter)

3. On August 19, 2013, the agency sent Petitioner a Notice of Proof Needed requesting proof of his living arrangement and household composition by August 28, 2013. The notice further instructed Petitioner to contact Investigator Lucci. (Exhibit 5)
4. On August 29, 2013, the agency sent Petitioner a notice indicating that effective October 1, 2013, his FoodShare benefits would be ending because he failed to provide the requested proof. (Exhibit 6)
5. Petitioner did not provide the requested proof by August 29, 2013. Petitioner did, however, contact Investigator Lucci on September 15, 2013, which resulted in a round of phone tag. Petitioner and Investigator Lucci finally touched base on November 11, 2013, at which time an appointment was made for them to meet on November 13, 2013. (Testimony of Petitioner and Investigator Lucci)
6. Petitioner filed a request for Fair Hearing that was received by the Division of Hearings and Appeals on October 15, 2013. (Exhibit 1)

DISCUSSION

“Verification means to establish the accuracy of verbal or written statements made by, or about a group's circumstances. Case files or case comments must include documentation for any information required to be verified to determine eligibility or benefit levels.” *BadgerCare+Handbook (BEH) §9.1* Proof of certain information is required to determine eligibility for BadgerCare+. *BEH §9.1* Items that must be verified are categorized as information that it is mandatory to verify and information that is questionable.

Items that it is mandatory to verify are:

1. Social Security Number
2. Citizenship and Identity
3. Immigrant Status
4. Pregnancy, if eligibility is based on the pregnancy, although as of January 1, 2014, it will no longer be necessary to verify pregnancy.
5. Medical Expenses (for deductibles only)
6. Documentation for Power of Attorney and Guardianship
7. Migrant worker's (eligibility in another state)
8. Income
9. Health Insurance Access
10. Health Insurance Coverage
11. Family Re-unification plan for Child Welfare Parents
12. The placement status of a FFCY on his/her 18th birthday
13. Tribal membership or Native American Descent
14. Pre-tax Deductions
15. MAGI Tax Deductions

BEH §9.9


Information is questionable for BC+ when:

1. There are inconsistencies in the group's oral or written statements.
2. There are inconsistencies between the group's claims and collateral contacts, documents, or prior records.
3. The member or his/her representative is unsure of the accuracy of his/her own statements.
4. The member has been convicted of Medicaid or BC+ fraud or has legally acknowledged his/her guilt of member fraud. Do not require a member to provide verification for the sole reason that

they have acknowledged or been convicted of fraud in any other public assistance or employment program.

5. The member is a minor who reports that s/he is living alone. This does not apply to minors applying solely for Family Planning Services.
6. The information provided is unclear or vague.

BEH §9.10

“Except for verification of access to employer sponsored health insurance, the member has primary responsibility for providing verification and resolving questionable information. However, the income maintenance worker must use all available data exchanges to verify information rather than requiring the applicant  to provide it.” *BEH §9.8*

BadgerCare+ benefits may be reduced when all of the following are true:

1. The member has the power to produce the verification.
2. The time allowed to produce the verification has passed.
3. The member has been given adequate notice of the verification required.
4. The agency needs the requested verification to determine current eligibility.

BEH §9.4.11

Current benefits may not be denied or reduced because a member does not verify some past circumstance not affecting current eligibility. *Id.*

In the case at hand, the agency was requesting verification of Petitioner’s “living arrangement” and of the people living in his home to see if the mother of Petitioner’s children was living with him. Presumably, the agency considered this questionable information, since what Petitioner reported about this was not consistent with what the collateral, anonymous source reported. (*See BEH §9.10*)

Having the mother of his children in the home would only affect Petitioner’s benefits, if the mother of his children had income that would put Petitioner over the BadgerCare+ income limit or premium limit. The agency has not produced any documentation showing that the mother of Petitioner’s children has income or had income. Consequently, the agency has not established that the information they were seeking from Petitioner, verification of household composition, would affect his eligibility. Because the agency has not shown that the requested information affects his current eligibility, it incorrectly terminated Petitioner’s BadgerCare+ benefits.

I also note that the agency only gave Petitioner nine days to provide the requested verification. That is not adequate notice of the verification required. Indeed, even in FoodShare cases, a benefit recipient has ten days in which to provide verification before his case may be closed. *FoodShare Wisconsin Handbook §1.2.1.2*

CONCLUSIONS OF LAW

The agency incorrectly terminated Petitioner’s BadgerCare+ benefits.

THEREFORE, it is

ORDERED

That the agency reinstate Petitioner's BadgerCare+ benefits effective October 1, 2013. The agency shall take all administrative steps necessary to complete this task within ten days of this decision.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

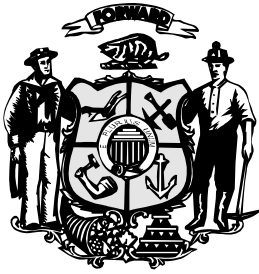
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 15th day of November, 2013.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 15, 2013.

Racine County Department of Human Services
Division of Health Care Access and Accountability